

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHANIE MCKINNEY,

Plaintiff,

-against-

STATE OF NEW YORK, SHERIFF ADRIAN
ANDERSON *in his personal capacity and official
capacity*, DUTCHESS COUNTY SHERIFF
DEPARTMENT, and THE COUNTY OF
DUTCHESS,

Defendants.

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DATE FILED: 12/3/2021

No. 19-cv-3920 (NSR)

ORDER & OPINION

NELSON S. ROMÁN, United States District Judge:

Plaintiff Stephanie McKinney (“Plaintiff” or “McKinney”) commenced this action on May 1, 2019 alleging Title VII violations against Defendants State of New York, Sheriff Adrian Anderson in his personal and official capacity, Dutchess County Sheriff Department, and the County of Dutchess (collective, “Defendants”). (ECF No. 1.) On January 8, 2021, Defendants filed a Motion to Dismiss Plaintiff’s Complaint that is currently pending before the court. (ECF No. 35.) On October 27, 2021, Defendants filed a Notification of Death of a Party pursuant to Federal Rule of Civil Procedure 25(a) that stated Defendant Sheriff Adrian Anderson died on September 29, 2021. (ECF No. 44.)

Rule 25 establishes a ninety-day period for any party to make a motion to substitute a party for the decedent. *See Kaplan v. Lehrer*, 173 F. App’x 934, 935 (2d Cir. 2006). The ninety-day period can be extended where there is “an inability or a significant difficulty in identifying the decedent’s legal representative or successor. *See Unicorn Tales, Inc. v. Banerjee*, 138 F.3d 467, 470 (2d Cir.1998).

In light of the foregoing, Defendants are directed to serve a copy of this Opinion and Order upon Defendant Sheriff Adrian Anderson's next of kin, and to file proof of service on the docket. Defendant Anderson's next of kin shall have ninety days from service of this Opinion and Order, by March 3, 2022, to move to be substituted as the representative of Defendant Anderson. In the event there is no timely substitution, the Complaint shall be deemed dismissed as to Defendant Anderson upon Defendants submitting an affidavit informing the Court that no substitution has been requested and upon submission of a proposed order of dismissal.

Dated: December 3, 2021
White Plains, New York

SO ORDERED:

A handwritten signature in dark ink, appearing to read 'Nelson S. Román', is written over a light blue horizontal line.

NELSON S. ROMÁN
United States District Judge